

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 297

HOUSE BILL 2595

AN ACT

AMENDING TITLE 12, CHAPTER 7, ARTICLE 12, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 12-990, 12-1000 AND 12-1001; AMENDING SECTIONS 32-101, 32-106, 32-106.01 AND 36-106.02, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-112; CHANGING THE DESIGNATION OF TITLE 32, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, TO "REGISTRATION AND CERTIFICATION"; AMENDING SECTION 32-121, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 32-122.03, 32-122.04 AND 32-122.05; AMENDING SECTIONS 32-123, 32-124, 32-127, 32-128 AND 32-145, ARIZONA REVISED STATUTES; RELATING TO REMEDIATION OF CONTAMINATED PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)



Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 12, chapter 7, article 12, Arizona Revised Statutes, is amended by adding sections 12-990, 12-1000 and 12-1001, to read:

12-990. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "CLANDESTINE DRUG LABORATORY" MEANS REAL PROPERTY ON WHICH METHAMPHETAMINE, ECSTASY OR LSD IS BEING MANUFACTURED OR WHERE A PERSON IS ARRESTED FOR HAVING ON ANY REAL PROPERTY CHEMICALS OR EQUIPMENT USED IN MANUFACTURING METHAMPHETAMINE, ECSTASY OR LSD. IN THE CASE OF A SPACE RENTAL MOBILE HOME OR RECREATIONAL VEHICLE PARK, CLANDESTINE DRUG LABORATORY MEANS THE MOBILE HOME OR RECREATIONAL VEHICLE IN WHICH METHAMPHETAMINE, ECSTASY OR LSD IS BEING MANUFACTURED OR WHERE A PERSON IS ARRESTED FOR HAVING IN THE MOBILE HOME OR RECREATIONAL VEHICLE CHEMICALS OR EQUIPMENT USED IN MANUFACTURING METHAMPHETAMINE, ECSTASY OR LSD.

2. "DRUG LABORATORY SITE REMEDIATION FIRM" MEANS A FIRM THAT IS REGISTERED WITH THE STATE BOARD OF TECHNICAL REGISTRATION PURSUANT TO SECTION 32-122.03 AND THAT PERFORMS REMEDIATION OF RESIDUAL CONTAMINATION FROM THE MANUFACTURE OF METHAMPHETAMINE, ECSTASY OR LSD OR THE STORAGE OF CHEMICALS OR EQUIPMENT USED IN MANUFACTURING METHAMPHETAMINE, ECSTASY OR LSD.

3. "ECSTASY" MEANS A DANGEROUS DRUG LISTED IN SECTION 13-3401 AND INCLUDES ANY OF THE PRECURSOR CHEMICALS, REGULATED CHEMICALS, OTHER SUBSTANCES OR EQUIPMENT USED IN THE UNLAWFUL MANUFACTURE OF THE DANGEROUS DRUG.

4. "GROSS CONTAMINATION" MEANS THE CHEMICALS, EQUIPMENT AND OTHER ITEMS THAT ARE FOUND IN A CLANDESTINE DRUG LABORATORY AND THAT ARE REMOVED BY A LAW ENFORCEMENT AGENCY OR OTHER AGENCY.

5. "LSD" MEANS A DANGEROUS DRUG LISTED IN SECTION 13-3401 AND INCLUDES ANY OF THE PRECURSOR CHEMICALS, REGULATED CHEMICALS, OTHER SUBSTANCES OR EQUIPMENT USED IN THE UNLAWFUL MANUFACTURE OF THE DANGEROUS DRUG.

6. "METHAMPHETAMINE" MEANS A DANGEROUS DRUG LISTED IN SECTION 13-3401 AND INCLUDES ANY OF THE PRECURSOR CHEMICALS, REGULATED CHEMICALS, OTHER SUBSTANCES OR EQUIPMENT USED IN THE UNLAWFUL MANUFACTURE OF THE DANGEROUS DRUG.

7. "REAL PROPERTY" INCLUDES THE AREA WITHIN A STRUCTURE AND THE AREA THAT SURROUNDS A STRUCTURE AND THAT IS WITHIN THE LAND BOUNDARY OR PROPERTY LINES OF ANY OF THE FOLLOWING:

(a) PROPERTY THAT IS USED PRIMARILY FOR RESIDENTIAL PURPOSES.

(b) PROPERTY THAT IS GOVERNED BY THE ARIZONA RESIDENTIAL LANDLORD AND TENANT ACT AS PRESCRIBED BY TITLE 33, CHAPTER 10.

(c) A MOBILE HOME AS DEFINED IN SECTION 33-1409.

(d) A RECREATIONAL VEHICLE AS DEFINED IN SECTION 33-2102.

8. "RESIDUALLY CONTAMINATED PORTION OF THE REAL PROPERTY" MEANS THE STRUCTURE OR UNIT WHERE GROSS CONTAMINATION WAS REMOVED AND THE AREA OF ANY ADJACENT STRUCTURE, UNIT OR LAND WHERE VISIBLE EVIDENCE OF RESIDUAL CONTAMINATION IS OBSERVED BY A PEACE OFFICER, INCLUDING ANY OF THE FOLLOWING:

1 (a) IF GROSS CONTAMINATION IS REMOVED FROM A HOUSE, MOBILE HOME OR
2 RECREATIONAL VEHICLE AND THE NOTICE OF REMOVAL IS POSTED FOR THE ENTIRE
3 HOUSE, MOBILE HOME OR RECREATIONAL VEHICLE, THE ENTIRE HOUSE, MOBILE HOME OR
4 RECREATIONAL VEHICLE, NOT JUST THE ROOM OR ROOMS IN WHICH THE GROSS
5 CONTAMINATION IS FOUND.

6 (b) IF GROSS CONTAMINATION IS REMOVED FROM A DETACHED SHED OR GARAGE,
7 THE OTHER STRUCTURES ON THE LAND ARE NOT AFFECTED AND THE NOTICE OF REMOVAL
8 IS POSTED ONLY FOR THE DETACHED SHED OR GARAGE, THE DETACHED SHED OR GARAGE
9 UNLESS VISIBLE EVIDENCE OF RESIDUAL CONTAMINATION IS FOUND IN ANY OF THE
10 OTHER STRUCTURES.

11 (c) IF GROSS CONTAMINATION IS REMOVED FROM A HOTEL, MOTEL ROOM OR
12 APARTMENT UNIT, THE ADJACENT ROOMS ARE NOT AFFECTED AND THE NOTICE OF REMOVAL
13 IS POSTED ONLY FOR THE CONTAMINATED ROOM OR APARTMENT UNIT, THE CONTAMINATED
14 ROOM OR APARTMENT UNIT UNLESS VISIBLE EVIDENCE OF RESIDUAL CONTAMINATION IS
15 FOUND IN AN ADJACENT ROOM OR APARTMENT UNIT.

16 12-1000. Clandestine drug laboratories; notice; cleanup;
17 residual contamination; civil penalty; immunity;
18 restitution; violation; classification

19 A. IF A PEACE OFFICER DISCOVERS A CLANDESTINE DRUG LABORATORY OR
20 ARRESTS A PERSON FOR HAVING ON ANY REAL PROPERTY CHEMICALS OR EQUIPMENT USED
21 IN MANUFACTURING METHAMPHETAMINE, ECSTASY OR LSD OR A DERIVATIVE OF
22 METHAMPHETAMINE, ECSTASY OR LSD, THE PEACE OFFICER:

23 1. AT THE TIME OF THE DISCOVERY OR ARREST, SHALL DELIVER A COPY OF THE
24 NOTICE OF REMOVAL PURSUANT TO SUBSECTION B OF THIS SECTION TO THE OWNER OF
25 THE REAL PROPERTY IF THE OWNER IS ON THE SITE AT THE TIME OF DELIVERY, THE
26 ON-SITE MANAGER IF THE MANAGER IS ON THE SITE AT THE TIME OF DELIVERY OR THE
27 ON-SITE DROP BOX IF AVAILABLE. IN THE CASE OF A TENANT-OWNED UNIT IN A SPACE
28 RENTAL MOBILE HOME OR RECREATIONAL VEHICLE PARK, THE OFFICER SHALL DELIVER
29 A COPY OF THE NOTICE OF REMOVAL TO THE OCCUPANT OF THE UNIT IF THE OCCUPANT
30 IS ON SITE AT THE TIME OF DELIVERY AND TO THE ON-SITE PARK LANDLORD IF THE
31 PARK LANDLORD IS ON SITE AT THE TIME OF DELIVERY.

32 2. WITHIN TWO BUSINESS DAYS AFTER THE DISCOVERY OR ARREST, SHALL SEND
33 THE NOTICE OF REMOVAL BY CERTIFIED MAIL TO THE OWNER OF THE REAL PROPERTY AND
34 THE OWNER'S ON-SITE MANAGER OR, IN THE CASE OF A SPACE RENTAL MOBILE HOME OR
35 RECREATIONAL VEHICLE PARK, TO THE OWNER OF THE MOBILE HOME OR RECREATIONAL
36 VEHICLE, IF APPLICABLE, AND TO THE PARK LANDLORD. THESE PERSONS ARE DEEMED
37 TO RECEIVE THE NOTICE OF REMOVAL FIVE DAYS AFTER THE NOTICE IS MAILED. THE
38 NOTICE SHALL BE SENT TO THE FOLLOWING:

39 (a) THE OWNER'S ADDRESS ON FILE WITH THE COUNTY ASSESSOR. THE COUNTY
40 SHALL WAIVE ANY FEE OR CHARGE FOR THE OWNER'S ADDRESS INFORMATION.

41 (b) THE COUNTY HEALTH DEPARTMENT.

42 (c) THE APPROPRIATE LOCAL FIRE DEPARTMENT.

43 3. AFTER A LAW ENFORCEMENT OR OTHER AGENCY REMOVES THE GROSS
44 CONTAMINATION ON THE REAL PROPERTY, SHALL ORDER THE REMOVAL OF ALL PERSONS
45 FROM THE RESIDUALLY CONTAMINATED PORTION OF THE REAL PROPERTY OR DWELLING

1 UNIT, IF APPLICABLE, OR, IN THE CASE OF A SPACE RENTAL MOBILE HOME OR
2 RECREATIONAL VEHICLE PARK, FROM THE UNIT LOCATED ON THE REAL PROPERTY.

3 4. AFTER THE PEACE OFFICER REMOVES ALL PERSONS PURSUANT TO PARAGRAPH
4 3 OF THIS SUBSECTION, SHALL AFFIX THE NOTICE OF REMOVAL IN A CONSPICUOUS
5 PLACE ON THE REAL PROPERTY OR, IN THE CASE OF A SPACE RENTAL MOBILE HOME OR
6 RECREATIONAL VEHICLE PARK, ON THE UNIT LOCATED ON THE REAL PROPERTY. THE
7 NOTICE OF REMOVAL SHALL STATE THAT IT IS UNLAWFUL FOR ANY PERSON OTHER THAN
8 THE OWNER, LANDLORD OR MANAGER TO ENTER THE RESIDUALLY CONTAMINATED PORTION
9 OF THE PROPERTY UNTIL THE OWNER REMEDIATES THE RESIDUALLY CONTAMINATED
10 PORTION OF THE PROPERTY.

11 B. THE NOTICE OF REMOVAL SHALL BE IN WRITING AND SHALL CONTAIN ALL OF
12 THE FOLLOWING:

13 1. THE WORD "WARNING" IN LARGE BOLD TYPE AT THE TOP AND BOTTOM OF THE
14 NOTICE.

15 2. A STATEMENT THAT A CLANDESTINE DRUG LABORATORY WAS SEIZED OR A
16 PERSON WAS ARRESTED ON THE REAL PROPERTY FOR HAVING CHEMICALS OR EQUIPMENT
17 USED IN THE MANUFACTURING OF METHAMPHETAMINE, ECSTASY OR LSD ON THE REAL
18 PROPERTY.

19 3. THE DATE OF THE SEIZURE OR ARREST.

20 4. THE ADDRESS OR LOCATION OF THE REAL PROPERTY, INCLUDING THE
21 IDENTIFICATION OF ANY DWELLING UNIT, ROOM NUMBER, APARTMENT NUMBER OR VEHICLE
22 NUMBER.

23 5. THE NAME OF THE LAW ENFORCEMENT AGENCY OR OTHER AGENCY THAT SEIZED
24 THE CLANDESTINE DRUG LABORATORY OR MADE THE ARREST AND THE AGENCY'S CONTACT
25 TELEPHONE NUMBER.

26 6. A STATEMENT THAT HAZARDOUS SUBSTANCES, TOXIC CHEMICALS OR OTHER
27 WASTE PRODUCTS MAY STILL BE PRESENT ON THE REAL PROPERTY OR, IN THE CASE OF
28 A SPACE RENTAL MOBILE HOME OR RECREATIONAL VEHICLE PARK, IN THE UNIT LOCATED
29 ON THE REAL PROPERTY.

30 7. A STATEMENT THAT IT IS UNLAWFUL FOR ANY UNAUTHORIZED PERSON TO
31 ENTER THE RESIDUALLY CONTAMINATED PORTION OF THE REAL PROPERTY OR, IN THE
32 CASE OF A SPACE RENTAL MOBILE HOME OR RECREATIONAL VEHICLE PARK, THE UNIT
33 LOCATED ON THE REAL PROPERTY, UNTIL THE OWNER, LANDLORD OR MANAGER
34 ESTABLISHES THAT THE PORTION OF THE REAL PROPERTY NOTICED AS RESIDUALLY
35 CONTAMINATED HAS BEEN REMEDIATED BY A DRUG LABORATORY SITE REMEDIATION FIRM.

36 8. A STATEMENT THAT IT IS A CLASS 6 FELONY TO VIOLATE THIS SECTION.

37 9. A STATEMENT THAT IT IS A CLASS 2 MISDEMEANOR TO DISTURB THE NOTICE
38 OF REMOVAL POSTED ON THE REAL PROPERTY.

39 10. A STATEMENT THAT THE OWNER OF THE REAL PROPERTY SHALL REMEDIATE THE
40 RESIDUALLY CONTAMINATED PORTION OF THE PROPERTY IN COMPLIANCE WITH SUBSECTION
41 C OF THIS SECTION.

42 11. A STATEMENT THAT IF AN OWNER FAILS TO PROVIDE ANY NOTICE REQUIRED
43 BY THIS SECTION, THE OWNER IS SUBJECT TO A CIVIL PENALTY AND A BUYER, TENANT
44 OR CUSTOMER MAY VOID A PURCHASE CONTRACT, RENTAL AGREEMENT OR OTHER
45 AGREEMENT.

1 C. THE OWNER OF THE REAL PROPERTY SHALL REMEDIATE THE RESIDUALLY
2 CONTAMINATED PORTION OF THE REAL PROPERTY BY RETAINING A REGISTERED DRUG
3 LABORATORY SITE REMEDIATION FIRM PURSUANT TO TITLE 32, CHAPTER 1.

4 D. A DRUG LABORATORY SITE REMEDIATION FIRM THAT REMEDIATES THE
5 RESIDUALLY CONTAMINATED PORTION OF ANY REAL PROPERTY PURSUANT TO THIS SECTION
6 SHALL COMPLY WITH THE REQUIREMENTS ESTABLISHED AND THE BEST PRACTICES AND
7 STANDARDS FOR REMEDIATION OF RESIDUAL CONTAMINATION ADOPTED BY THE STATE
8 BOARD OF TECHNICAL REGISTRATION PURSUANT TO TITLE 32, CHAPTER 1. WHEN
9 REMEDIATION IS COMPLETE, THE DRUG LABORATORY SITE REMEDIATION FIRM SHALL
10 REMOVE THE POSTED NOTICE AND SHALL ISSUE A DOCUMENT STATING THAT THE
11 RESIDUALLY CONTAMINATED PORTION OF THE REAL PROPERTY HAS BEEN REMEDIATED.
12 WITHIN TWENTY-FOUR HOURS AFTER THE REMEDIATION IS COMPLETE, THE DRUG
13 LABORATORY SITE REMEDIATION FIRM SHALL DELIVER THE DOCUMENT OR SEND THE
14 DOCUMENT BY CERTIFIED MAIL TO EACH PERSON AND ENTITY LISTED IN SUBSECTION A,
15 PARAGRAPH 2 AND THE LAW ENFORCEMENT AGENCY THAT ISSUED THE NOTICE UNDER THAT
16 SUBSECTION. AFTER THE DOCUMENT HAS BEEN ISSUED, BOTH OF THE FOLLOWING APPLY:

17 1. THE OWNER, LANDLORD OR MANAGER OF THE REAL PROPERTY IS NOT REQUIRED
18 TO COMPLY WITH SUBSECTION F OF THIS SECTION.

19 2. ANY PERSON MAY USE, ENTER, OCCUPY, RENT OR SELL THE REAL PROPERTY.

20 E. THE COUNTY HEALTH DEPARTMENT SHALL MAINTAIN AND MAKE AVAILABLE ON
21 REQUEST ANY DOCUMENTS THAT ARE RECEIVED PURSUANT TO SUBSECTION D OF THIS
22 SECTION.

23 F. THE FOLLOWING NOTICE REQUIREMENTS APPLY UNTIL THE REMEDIATION IS
24 COMPLETE AS PROVIDED IN SUBSECTION D OF THIS SECTION:

25 1. WITHIN FIVE DAYS AFTER A BUYER SIGNS A CONTRACT TO PURCHASE THE
26 REAL PROPERTY, THE OWNER SHALL NOTIFY THE BUYER IN WRITING THAT
27 METHAMPHETAMINE, ECSTASY OR LSD WAS MANUFACTURED ON THE REAL PROPERTY OR THAT
28 AN ARREST WAS MADE PURSUANT THIS SECTION. THE BUYER SHALL ACKNOWLEDGE
29 RECEIPT OF THE NOTICE. A BUYER MAY CANCEL THE REAL ESTATE PURCHASE CONTRACT
30 WITHIN FIVE DAYS AFTER RECEIVING THE NOTICE. IF THE OWNER DOES NOT COMPLY
31 WITH THIS PARAGRAPH, THE BUYER MAY CANCEL THE PURCHASE CONTRACT.

32 2. THE LANDLORD SHALL NOTIFY A PROSPECTIVE TENANT FOR A DWELLING UNIT
33 THAT WAS THE SUBJECT OF THE NOTICE IN WRITING THAT METHAMPHETAMINE, ECSTASY
34 OR LSD WAS MANUFACTURED ON THE REAL PROPERTY OR THAT AN ARREST WAS MADE
35 PURSUANT THIS SECTION. THE TENANT SHALL ACKNOWLEDGE RECEIPT OF THE NOTICE
36 BEFORE TAKING POSSESSION OF THE REAL PROPERTY OR BEFORE SIGNING A RENTAL
37 AGREEMENT FOR THE REAL PROPERTY. THE NOTICE SHALL BE ATTACHED TO THE RENTAL
38 AGREEMENT. IF THE LANDLORD DOES NOT COMPLY WITH THIS PARAGRAPH, THE TENANT
39 MAY VOID THE RENTAL AGREEMENT.

40 3. BEFORE A CUSTOMER OCCUPIES A ROOM THAT WAS THE SUBJECT OF THE
41 NOTICE, THE OWNER OR MANAGER SHALL NOTIFY THE CUSTOMER IN WRITING THAT
42 METHAMPHETAMINE, ECSTASY OR LSD WAS MANUFACTURED IN THE ROOM OR THAT AN
43 ARREST WAS MADE PURSUANT TO THIS SECTION. IF THE OWNER OR MANAGER DOES NOT
44 COMPLY WITH THIS PARAGRAPH, THE CUSTOMER MAY VOID THE AGREEMENT.

1 4. THE OWNER SHALL NOTIFY A BUYER OR PROSPECTIVE TENANT IN WRITING
2 THAT METHAMPHETAMINE, ECSTASY OR LSD WAS MANUFACTURED IN THE MOBILE HOME OR
3 RECREATIONAL VEHICLE OR THAT AN ARREST WAS MADE PURSUANT TO THIS
4 SECTION. THE BUYER SHALL ACKNOWLEDGE RECEIPT OF THE NOTICE BEFORE TAKING
5 POSSESSION OF THE MOBILE HOME OR RECREATIONAL VEHICLE. A BUYER MAY CANCEL
6 THE PURCHASE CONTRACT WITHIN FIVE DAYS AFTER RECEIVING THE NOTICE. THE
7 TENANT SHALL ACKNOWLEDGE RECEIPT OF THE NOTICE BEFORE TAKING POSSESSION OF
8 THE MOBILE HOME OR RECREATIONAL VEHICLE OR BEFORE SIGNING A RENTAL AGREEMENT
9 FOR THE MOBILE HOME OR RECREATIONAL VEHICLE. THE NOTICE SHALL BE ATTACHED
10 TO THE RENTAL AGREEMENT. IF THE OWNER DOES NOT COMPLY WITH THIS PARAGRAPH,
11 THE TENANT MAY VOID THE RENTAL AGREEMENT.

12 5. IF A MOBILE HOME OR RECREATIONAL VEHICLE IN A SPACE RENTAL PARK
13 CONTAINS A CLANDESTINE DRUG LABORATORY, THE LANDLORD, ON RECEIPT OF A NOTICE
14 PURSUANT TO THIS SECTION, SHALL NOTIFY THE LIENHOLDER OF RECORD AND THE OWNER
15 OF RECORD OF THE UNIT TO REMOVE IT FROM THE PARK WITHIN THIRTY DAYS. IF THE
16 UNIT IS NOT REMOVED WITHIN THIRTY DAYS, THE LANDLORD MAY REMOVE OR DEMOLISH
17 THE UNIT AND DISPOSE OF IT AS JUNK AND SHALL NOTIFY THE DEPARTMENT OF
18 TRANSPORTATION OF THE DEMOLITION. A LANDLORD THAT COMPLIES WITH THIS
19 SUBSECTION IS NOT LIABLE FOR SUCH ACTION.

20 G. IF AN OWNER FAILS TO PROVIDE ANY NOTICE REQUIRED BY THIS SECTION,
21 THE OWNER IS SUBJECT TO A CIVIL PENALTY OF ONE THOUSAND DOLLARS AND IS LIABLE
22 FOR ANY HARM RESULTING FROM THE OWNER'S FAILURE TO COMPLY WITH THE
23 REQUIREMENTS OF THIS SECTION.

24 H. A STATE OR LOCAL GOVERNMENT AND A STATE OR LOCAL GOVERNMENT'S
25 EMPLOYEES OR AUTHORIZED REPRESENTATIVES ARE NOT RESPONSIBLE PARTIES AS
26 PRESCRIBED BY SECTION 49-283 AND ARE NOT LIABLE FOR COSTS OR DAMAGES INCURRED
27 AS A RESULT OF ACTION TAKEN IN COMPLIANCE WITH THIS SECTION. THIS SUBSECTION
28 DOES NOT PRECLUDE LIABILITY FOR COSTS OR DAMAGES THAT RESULT FROM GROSS
29 NEGLIGENCE OR INTENTIONAL MISCONDUCT BY A STATE OR LOCAL GOVERNMENT. FOR THE
30 PURPOSES OF THIS SUBSECTION, "GROSS NEGLIGENCE" MEANS RECKLESS, WILLFUL OR
31 WANTON MISCONDUCT.

32 I. A PERSON WHO OPERATES A CLANDESTINE DRUG LABORATORY AND WHO IS NOT
33 THE OWNER OF THE REAL PROPERTY SHALL PAY RESTITUTION TO THE OWNER OF THE REAL
34 PROPERTY FOR ALL COSTS THAT THE OWNER INCURRED TO REMEDIATE THE PROPERTY.

35 J. A PERSON WHO KNOWINGLY VIOLATES AN ORDER OR NOTICE OF REMOVAL THAT
36 IS ISSUED BY A PEACE OFFICER UNDER THIS SECTION IS GUILTY OF A CLASS 6
37 FELONY. A PERSON WHO KNOWINGLY DISTURBS A NOTICE OF REMOVAL POSTED ON THE
38 REAL PROPERTY IS GUILTY OF A CLASS 2 MISDEMEANOR.

39 12-1001. Joint legislative oversight committee on residual
40 contamination of drug properties

41 A. THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON RESIDUAL CONTAMINATION
42 OF DRUG PROPERTIES IS ESTABLISHED.

43 B. THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

1 1. THREE MEMBERS OF THE HOUSE OF REPRESENTATIVES WHO ARE APPOINTED BY
2 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, NOT MORE THAN TWO OF WHOM SHALL
3 BE MEMBERS OF THE SAME POLITICAL PARTY.

4 2. THREE MEMBERS OF THE SENATE WHO ARE APPOINTED BY THE PRESIDENT OF
5 THE SENATE, NOT MORE THAN TWO OF WHOM SHALL BE MEMBERS OF THE SAME POLITICAL
6 PARTY.

7 3. ONE INDUSTRIAL HYGIENIST WHO IS APPOINTED BY THE GOVERNOR.

8 4. ONE MEMBER OF THE BOARD OF TECHNICAL REGISTRATION WHO IS APPOINTED
9 BY THE GOVERNOR OR THE DIRECTOR OF THE BOARD OF TECHNICAL REGISTRATION.

10 5. ONE PERSON WHO REPRESENTS THE RESIDENTIAL REAL ESTATE INDUSTRY AND
11 WHO IS APPOINTED BY THE GOVERNOR.

12 6. ONE PUBLIC HEALTH OFFICIAL FROM A COUNTY WITH A POPULATION OF LESS
13 THAN FOUR HUNDRED THOUSAND PERSONS AND ONE PUBLIC HEALTH OFFICIAL FROM A
14 COUNTY WITH A POPULATION OF FOUR HUNDRED THOUSAND PERSONS OR MORE WHO ARE
15 APPOINTED BY THE GOVERNOR.

16 7. TWO PEACE OFFICERS WHO ARE APPOINTED BY THE ARIZONA PEACE OFFICER
17 STANDARDS AND TRAINING BOARD.

18 8. ONE PROSECUTOR FROM A COUNTY WITH A POPULATION OF LESS THAN FOUR
19 HUNDRED THOUSAND PERSONS AND ONE PROSECUTOR FROM A COUNTY WITH A POPULATION
20 OF FOUR HUNDRED THOUSAND PERSONS OR MORE WHO ARE APPOINTED BY THE ARIZONA
21 PROSECUTING ATTORNEYS' ADVISORY COUNCIL.

22 9. TWO MEMBERS OF THE PUBLIC WHO ARE APPOINTED BY THE GOVERNOR.

23 10. THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE.

24 C. THE COMMITTEE SHALL ANNUALLY ELECT A CHAIRPERSON FROM AMONG ITS
25 MEMBERS.

26 D. THE ATTORNEY GENERAL SHALL SUBMIT BEST PRACTICES AND STANDARDS FOR
27 THE REMEDIATION OF RESIDUAL CONTAMINATION FOUND ON REAL PROPERTY FROM THE
28 MANUFACTURE OF METHAMPHETAMINE, ECSTASY OR LSD OR THE STORAGE OF CHEMICALS
29 OR EQUIPMENT USED IN MANUFACTURING METHAMPHETAMINE, ECSTASY OR LSD. THE
30 COMMITTEE SHALL REVIEW THE BEST PRACTICES AND STANDARDS AND FORWARD THEM TO
31 THE STATE BOARD OF TECHNICAL REGISTRATION. THE BOARD SHALL ADOPT THESE BEST
32 PRACTICES AND STANDARDS BY RULE NOT LATER THAN JULY 31, 2003.

33 E. THE COMMITTEE SHALL STUDY AND MAKE RECOMMENDATIONS REGARDING THE
34 EFFECTIVENESS OF THE PROGRAM ESTABLISHED BY SECTION 12-1000 AND SHALL SUBMIT
35 A REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR, THE PRESIDENT
36 OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES ON OR BEFORE
37 DECEMBER 15 OF EACH YEAR. THE COMMITTEE SHALL PROVIDE A COPY OF THIS REPORT
38 TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY,
39 ARCHIVES AND PUBLIC RECORDS.

40 Sec. 2. Section 32-101, Arizona Revised Statutes, is amended to read:

41 32-101. Purpose; definitions

42 A. The purpose of this chapter is to provide for the safety, health
43 and welfare of the public through the promulgation and enforcement of
44 standards of qualification for those individuals registered or certified and
45 seeking registration or certification pursuant to this chapter.

1 B. In this chapter, unless the context otherwise requires:

2 1. "Advertising" includes business cards, signs or letterhead provided
3 by a person to the public.

4 2. "Architect" means a person who, by reason of knowledge of the
5 mathematical and physical sciences and the principles of architecture and
6 architectural engineering acquired by professional education and practical
7 experience, is qualified to engage in the practice of architecture as
8 attested by registration as an architect.

9 3. "Architect-in-training" means a candidate for registration as a
10 professional architect who is a graduate of a school approved by the board
11 or who has five years or more of education or experience, or both, in
12 architectural work which meets standards specified by the board in its
13 rules. In addition, the candidate shall have passed the
14 architect-in-training examination.

15 4. "Architectural practice" means any professional service or creative
16 work requiring architectural education, training and experience, and the
17 application of the mathematical and physical sciences and the principles of
18 architecture and architectural engineering to such professional services or
19 creative work as consultation, evaluation, design and review of construction
20 for conformance with contract documents and design, in connection with any
21 building, planning or site development. A person shall be deemed to practice
22 or offer to practice architecture who in any manner represents that the
23 person is an architect, or is able to perform any architectural service or
24 other services recognized by educational authorities as architecture.

25 5. "Assayer" means a person who analyzes metals, ores, minerals, or
26 alloys in order to ascertain the quantity of gold or silver or any other
27 substance present in them. A person employed on a full-time basis as an
28 assayer by an employer engaged in the business of developing, mining or
29 treating ores or other minerals shall not be deemed to be engaged in assaying
30 practice for the purposes of this chapter if the person engages in assaying
31 practice exclusively for and as an employee of such employer and does not
32 represent that the person is available and is not represented as being
33 available to perform any assaying services for anyone other than the person's
34 employer.

35 6. "Assayer-in-training" means a candidate for registration as a
36 professional assayer who is a graduate of a school and curriculum approved
37 by the board or who has four years or more of education or experience, or
38 both, in assaying work which meets standards specified by the board in its
39 rules. In addition, the candidate shall have passed the assayer-in-training
40 examination.

41 7. "Assaying practice" means any professional service or work
42 requiring assaying education, training and experience and the application of
43 special knowledge of the mineral sciences to such service or work as
44 consultation and the evaluation of minerals. A person is deemed to practice
45 or offer to practice assaying who in any manner represents that the person

1 is an assayer or is able to perform any assaying service or other services
2 recognized by educational authorities as assaying.

3 8. "Board" means the state board of technical registration.

4 9. "Certified remediation specialist" means a person who has been
5 certified by the board to perform, supervise and review environmental
6 remediations if the use of a certified remediation specialist is specifically
7 authorized by title 49 and rules adopted pursuant to title 49.

8 10. "DRUG LABORATORY SITE REMEDIATION FIRM" MEANS A FIRM THAT IS
9 LICENSED BY THE REGISTRAR OF CONTRACTORS PURSUANT TO CHAPTER 10 OF THIS TITLE
10 AND THAT PERFORMS REMEDIATION OF RESIDUAL CONTAMINATION FROM THE MANUFACTURE
11 OF METHAMPHETAMINE, ECSTASY OR LSD OR THE STORAGE OF CHEMICALS OR EQUIPMENT
12 USED IN MANUFACTURING METHAMPHETAMINE, ECSTASY OR LSD. FOR THE PURPOSES OF
13 THIS PARAGRAPH:

14 (a) "METHAMPHETAMINE" MEANS A DANGEROUS DRUG LISTED IN SECTION 13-3401
15 AND INCLUDES ANY OF THE PRECURSOR CHEMICALS, REGULATED CHEMICALS, OTHER
16 SUBSTANCES OR EQUIPMENT USED IN THE UNLAWFUL MANUFACTURE OF THE DANGEROUS
17 DRUG.

18 (b) "ECSTASY" MEANS A DANGEROUS DRUG LISTED IN SECTION 13-3401 AND
19 INCLUDES ANY OF THE PRECURSOR CHEMICALS, REGULATED CHEMICALS, OTHER
20 SUBSTANCES OR EQUIPMENT USED IN THE UNLAWFUL MANUFACTURE OF THE DANGEROUS
21 DRUG.

22 (c) "LSD" MEANS A DANGEROUS DRUG LISTED IN SECTION 13-3401 AND
23 INCLUDES ANY OF THE PRECURSOR CHEMICALS, REGULATED CHEMICALS, OTHER
24 SUBSTANCES OR EQUIPMENT USED IN THE UNLAWFUL MANUFACTURE OF THE DANGEROUS
25 DRUG.

26 ~~10.~~ 11. "Engineer" means a person who, by reason of special knowledge
27 of the mathematical and physical sciences and the principles and methods of
28 engineering analysis and design acquired by professional education and
29 practical experience, is qualified to practice engineering as attested by
30 registration as a professional engineer.

31 ~~11.~~ 12. "Engineering practice" means any professional service or
32 creative work requiring engineering education, training and experience and
33 the application of special knowledge of the mathematical, physical and
34 engineering sciences to such professional services or creative work as
35 consultation, research investigation, evaluation, planning, surveying as
36 defined in paragraph 26, subdivisions (d) and (e), design, location,
37 development, and review of construction for conformance with contract
38 documents and design, in connection with any public or private utility,
39 structure, building, machine, equipment, process, work or project. Such
40 services and work include plans and designs relating to the location,
41 development, mining and treatment of ore and other minerals. A person shall
42 be deemed to be practicing or offering to practice engineering if the person
43 practices any branch of the profession of engineering, or by verbal claim,
44 sign, advertisement, letterhead, card or any other manner represents that the
45 person is a professional engineer, or is able to perform or does perform any

1 engineering service or other service recognized by educational authorities
2 as engineering. A person employed on a full-time basis as an engineer by an
3 employer engaged in the business of developing, mining and treating ores and
4 other minerals shall not be deemed to be practicing engineering for the
5 purposes of this chapter if the person engages in the practice of engineering
6 exclusively for and as an employee of such employer and does not represent
7 that the person is available and is not represented as being available to
8 perform any engineering services for persons other than the person's
9 employer.

10 ~~12.~~ 13. "Engineer-in-training" means a candidate for registration as
11 a professional engineer who is a graduate in an approved engineering
12 curriculum of four years or more of a school approved by the board or who has
13 had four years or more of education or experience, or both, in engineering
14 work which meets standards specified by the board in its rules. In addition,
15 the candidate shall have passed the engineer-in-training examination.

16 ~~13.~~ 14. "Firm" means any two or more individuals, including
17 partnerships, corporations or other types of associations, including the
18 association of a nonregistrant and a registrant who offer professional
19 services regulated by this THE board.

20 ~~14.~~ 15. "Geological practice" means any professional service or work
21 requiring geological education, training and experience, and the application
22 of special knowledge of the earth sciences to such professional services as
23 consultation, evaluation of mining properties, petroleum properties and
24 groundwater resources, professional supervision of exploration for mineral
25 natural resources including metallic and nonmetallic ores, petroleum and
26 groundwater, and the geological phases of engineering investigations.

27 ~~15.~~ 16. "Geologist" means a person, not of necessity an engineer, who
28 by reason of special knowledge of the earth sciences and the principles and
29 methods of search for and appraisal of mineral or other natural resources
30 acquired by professional education and practical experience is qualified to
31 practice geology as attested by registration as a professional geologist. A
32 person employed on a full-time basis as a geologist by an employer engaged
33 in the business of developing, mining or treating ores and other minerals
34 shall not be deemed to be engaged in geological practice for the purposes of
35 this chapter if the person engages in geological practice exclusively for and
36 as an employee of such employer and does not represent that the person is
37 available and is not represented as being available to perform any geological
38 services for persons other than the person's employer.

39 ~~16.~~ 17. "Geologist-in-training" means a candidate for registration as
40 a professional geologist who is a graduate of a school approved by the board
41 or who has had four years or more of education or experience, or both, in
42 geological work which meets standards specified by the board in its
43 rules. In addition, the candidate shall have passed the
44 geologist-in-training examination.

1 ~~17.~~ 18. "Home inspection" means a visual analysis for the purposes of
2 providing a professional opinion of the building, any reasonably accessible
3 installed components and the operation of the building's systems, including
4 the controls normally operated by the owner, for the following components of
5 a residential building of four units or less:

- 6 (a) Heating system.
- 7 (b) Cooling system.
- 8 (c) Plumbing system.
- 9 (d) Electrical system.
- 10 (e) Structural components.
- 11 (f) Foundation.
- 12 (g) Roof covering.
- 13 (h) Exterior and interior components.
- 14 (i) Site aspects as they affect the building.

15 ~~18.~~ 19. "Home inspection report" means a written report that is
16 prepared for compensation, that is issued after a home inspection and that
17 clearly describes and identifies the inspected systems, structures and
18 components of the dwelling and any visible major defects found to be in need
19 of immediate major repair and any recommendations for additional evaluation
20 by appropriate persons.

21 ~~19.~~ 20. "Home inspector" means an individual who is certified pursuant
22 to this chapter as a home inspector and who engages in the business of
23 performing home inspections and writing home inspection reports.

24 ~~20.~~ 21. "Home inspector-in-training" means a candidate for
25 certification as a home inspector who has completed a course of study
26 approved by the board and is participating in a training program that
27 complies with standards recommended by the home inspector rules and standards
28 committee and approved by the board.

29 ~~21.~~ 22. "Landscape architect" means a person who, by reason of
30 professional education or practical experience, or both, is qualified to
31 engage in the practice of landscape architecture as attested by registration
32 as a landscape architect.

33 ~~22.~~ 23. "Landscape architect-in-training" means a candidate for
34 registration as a professional landscape architect who is a graduate of a
35 school approved by the board or who has had four years or more of education
36 or experience, or both, in landscape architectural work which meets standards
37 specified by the board in its rules. In addition, the candidate shall have
38 passed the landscape architect-in-training examination.

39 ~~23.~~ 24. "Landscape architectural practice" means the performance of
40 professional services such as consultations, investigation, reconnaissance,
41 research, planning, design or responsible supervision in connection with the
42 development of land and incidental water areas where, and to the extent that,
43 the dominant purpose of such services is the preservation, enhancement or
44 determination of proper land uses, natural land features, ground cover and
45 planting, naturalistic and aesthetic values, the settings of and approaches

1 to buildings, structures, facilities or other improvements, natural drainage
2 and the consideration and the determination of inherent problems of the land
3 relating to erosion, wear and tear, light or other hazards. This practice
4 shall include the location and arrangement of such tangible objects and
5 features as are incidental and necessary to the purposes outlined in this
6 paragraph but shall not include the making of cadastral surveys or final land
7 plats for official recording or approval, nor mandatorily include planning
8 for governmental subdivisions.

9 ~~24.~~ 25. "Land surveyor" means a person who by reason of knowledge of
10 the mathematical and physical sciences, principles of land surveying and
11 evidence gathering acquired by professional education or practical
12 experience, or both, is qualified to practice land surveying as attested by
13 registration as a land surveyor. A person employed on a full-time basis as
14 a land surveyor by an employer engaged in the business of developing, mining
15 or treating ores or other minerals shall not be deemed to be engaged in land
16 surveying practice for purposes of this chapter if the person engages in land
17 surveying practice exclusively for and as an employee of such employer and
18 does not represent that the person is available and is not represented as
19 being available to perform any land surveying services for persons other than
20 the person's employer.

21 26. "Land surveying practice" means the performance of one or more of
22 the following professional services:

23 (a) Measurement of land to determine the position of any monument or
24 reference point which marks a property line, boundary or corner for the
25 purpose of determining the area or description of the land.

26 (b) Location, relocation, establishment, reestablishment, setting,
27 resetting or replacing of corner monuments or reference points which identify
28 land boundaries, rights-of-way or easements.

29 (c) Platting or plotting of lands for the purpose of subdividing.

30 (d) Measurement by angles, distances and elevations of natural or
31 artificial features in the air, on the surface and immediate subsurface of
32 the earth, within underground workings and on the surface or within bodies
33 of water for the purpose of determining or establishing their location, size,
34 shape, topography, grades, contours or water surface and depths, and the
35 preparation and perpetuation of field note records and maps depicting these
36 features.

37 (e) Setting, resetting or replacing of points to guide the location
38 of new construction.

39 ~~25.~~ 27. "Land surveyor-in-training" means a candidate for registration
40 as a professional land surveyor who is a graduate of a school and curriculum
41 approved by the board, or who has four years or more of education or
42 experience, or both, in land surveying work which meets standards specified
43 by the board in its rules. In addition, the candidate shall have passed the
44 land surveyor-in-training examination.

1 28. "ON-SITE WORKER" MEANS AN EMPLOYEE OF A DRUG LABORATORY SITE
2 REMEDIATION FIRM WHO HAS ON-SITE DUTIES OR WHO HANDLES CONTAMINATED
3 MATERIALS, CHEMICALS OR CONTAMINATED EQUIPMENT.

4 ~~27.~~ 29. "Person" means any individual, firm, partnership, corporation,
5 association or other organization.

6 ~~28.~~ 30. "Principal" means an individual who is an officer of the
7 corporation or is designated by a firm as having full authority and
8 responsible charge of the services offered by the firm.

9 31. "REMEDIATION SUPERVISOR" MEANS THE EMPLOYEE OF A DRUG LABORATORY
10 SITE REMEDIATION FIRM WHO IS AUTHORIZED TO OVERSEE OTHER EMPLOYEES IN THE
11 PERFORMANCE OF THEIR DUTIES.

12 Sec. 3. Section 32-106, Arizona Revised Statutes, is amended to read:

13 32-106. Powers and duties

14 A. The board shall:

15 1. Adopt rules for the conduct of its meetings and performance of
16 duties imposed upon it by law.

17 2. Adopt an official seal for attestation of certificates of
18 registration and other official papers and documents.

19 3. Consider and pass upon applications for registration OR
20 CERTIFICATION.

21 4. Conduct examinations for in-training and professional registration.

22 5. Hear and pass upon complaints or charges or direct an
23 administrative law judge to hear and pass on complaints and charges.

24 6. Compel attendance of witnesses, administer oaths and take testimony
25 concerning all matters coming within its jurisdiction. In exercising these
26 powers, the board may issue subpoenas for the attendance of witnesses and the
27 production of books, records, documents and other evidence it deems relevant
28 to an investigation or hearing.

29 7. Keep a record of its proceedings.

30 8. Keep a register which shall show the date of each application for
31 registration OR CERTIFICATION, the name of the applicant, the practice or
32 branch of practice in which the applicant has applied for registration, IF
33 APPLICABLE, and the disposition of the application.

34 9. Do other things necessary to carry out the purposes of this
35 chapter.

36 B. The board shall specify the proficiency designation in the branch
37 of engineering in which the applicant has designated proficiency on the
38 certificate of registration and renewal card issued to each registered
39 engineer and shall authorize the engineer to use the title of registered
40 professional engineer. The board shall decide what branches of engineering
41 it shall recognize.

42 C. The board may hold membership in and be represented at national
43 councils or organizations of proficiencies registered under this chapter and
44 may pay the appropriate membership fees. The board may conduct standard

1 examinations on behalf of national councils and may establish fees for those
2 examinations.

3 D. The board may employ and pay on a fee basis persons, including
4 full-time employees of a state institution, bureau or department, to prepare
5 and grade examinations given to applicants for registration and may fix the
6 fee to be paid for these services. These employees are authorized to
7 prepare, grade and monitor examinations and perform other services the board
8 authorizes, and to receive payment for these services from the technical
9 registration fund. The board may contract with an organization to administer
10 the registration examination including selecting the test site, scheduling
11 the examination, billing and collecting the fee directly from the applicant
12 and grading the examination if a national council of which the board is a
13 member or a professional association approved by the board does not provide
14 these services. If a national council of which the board is a member or a
15 professional association approved by the board does provide these services,
16 the board shall enter into an agreement with the national council OR
17 PROFESSIONAL ASSOCIATION to administer the registration examination.

18 E. The board may rent necessary office space and pay the cost of this
19 office space from the technical registration fund.

20 F. The board may adopt rules establishing rules of professional
21 conduct for registrants.

22 G. The board may require evidence it deems necessary to establish the
23 continuing competency of registrants as a condition of renewal of licenses.

24 H. The board may employ persons as it deems necessary.

25 I. THE BOARD SHALL ISSUE A CERTIFICATE AND RENEWAL CARD TO EACH DRUG
26 LABORATORY SITE REMEDIATION FIRM, REMEDIATION SUPERVISOR AND ON-SITE WORKER.

27 Sec. 4. Section 32-106.01, Arizona Revised Statutes, is amended to
28 read:

29 32-106.01. Petition for injunction

30 A. The superior court may issue an injunction forthwith IMMEDIATELY
31 upon a petition filed as provided in this section to enjoin the practice of
32 ~~architecture, assaying, engineering, geology, landscape architecture, home~~
33 ~~inspection and land surveying~~ ANY BOARD REGULATED PROFESSION OR OCCUPATION
34 by any person not registered OR CERTIFIED to practice such occupations or
35 exempt pursuant to section 32-144 from registration requirements.

36 B. In a petition for injunction pursuant to subsection A of this
37 section, it shall be sufficient to charge that the respondent on a day
38 certain in a named county engaged in the practice of architecture, assaying,
39 engineering, geology, landscape architecture, home inspection or land
40 surveying without a registration and without being exempt pursuant to section
41 32-144 from registration requirements. No showing of damage or injury shall
42 be required.

43 C. Such petition shall be filed in the name of the state by the board
44 or, at the request of the board by the attorney general or any county attorney
45 in any county where the respondent resides or may be found.

1 D. Issuance of an injunction shall not relieve THE respondent from
2 being subject to any proceedings pursuant to section 32-145, or otherwise.
3 Any violation of an injunction shall be punished as contempt of court.

4 E. In all other respects, injunction proceedings pursuant to this
5 section shall be governed by title 12, chapter 10, article 1.

6 Sec. 5. Section 32-106.02, Arizona Revised Statutes, is amended to
7 read:

8 32-106.02. Authority to investigate; civil penalties

9 A. The board may initiate a hearing pursuant to title 41, chapter 6,
10 article 10 on receipt of a complaint that a person who is not exempt from
11 this chapter and is not registered OR CERTIFIED under this chapter is
12 practicing, offering to practice or by implication purporting to be qualified
13 to practice ~~as an architect, assayer, engineer, geologist, landscape~~
14 ~~architect, home inspector or land surveyor~~ ANY BOARD REGULATED PROFESSION OR
15 OCCUPATION. The board shall give notice of the hearing by mailing a copy of
16 the complaint to the person's last known address by certified mail return
17 receipt requested.

18 B. If after the hearing the board determines that based on the
19 evidence the person committed a violation under section 32-145, it, in
20 addition to any other sanction, action or remedy, shall issue an order that
21 imposes a civil penalty of no more than two thousand dollars per violation.

22 C. In determining the amount of the civil penalty it imposes, the
23 board shall consider:

24 1. The seriousness of the violation.

25 2. The economic benefit to the violator that was generated by the
26 violator's commission of the violation.

27 3. The violator's history of violations.

28 4. Any other considerations the board deems appropriate.

29 D. Except as provided in section 41-1092.08, subsection H, a person
30 may seek judicial review of a final administrative decision made or order
31 issued pursuant to this section pursuant to title 12, chapter 7, article 6.

32 E. If a person fails to pay a civil penalty that the board imposes
33 within thirty days after the board issues the order or if the order is stayed
34 pending appeal within ten days after the court enters a final judgment in
35 favor of the board, the board shall notify the attorney general. The
36 attorney general may commence a civil action to recover the penalty.

37 F. An action to enforce an order that was issued under this section
38 may be combined with a petition for injunction under section 32-106.01.

39 G. The board shall deposit, pursuant to sections 35-146 and 35-147,
40 all civil penalties collected under this section in the state general fund.

41 Sec. 6. Title 32, chapter 1, article 1, Arizona Revised Statutes, is
42 amended by adding section 32-112, to read:

43 32-112. Environmental remediation rules and standards committee

44 A. AN ENVIRONMENTAL REMEDIATION RULES AND STANDARDS COMMITTEE OF THE
45 BOARD IS ESTABLISHED AND CONSISTS OF:

1 1. ONE INDUSTRIAL HYGIENIST OR TOXICOLOGIST WHO IS EXPERIENCED IN
2 SAMPLING AND MONITORING AND INDOOR AIR QUALITY ISSUES AND WHO IS APPOINTED
3 BY THE BOARD.

4 2. ONE PERSON WHO IS EXPERIENCED IN OPERATING A DRUG LABORATORY
5 REMEDIATION FIRM AND WHO IS APPOINTED BY THE BOARD.

6 3. ONE REPRESENTATIVE FROM THE DEPARTMENT OF HEALTH SERVICES
7 EXPERIENCED IN INDOOR AIR QUALITY WHO IS APPOINTED BY THE DIRECTOR OF THE
8 DEPARTMENT OF HEALTH SERVICES.

9 4. ONE REGISTERED ENGINEER OR GEOLOGIST WHO IS EXPERIENCED IN
10 ENVIRONMENTAL REMEDIATION AND WHO IS APPOINTED BY THE BOARD.

11 5. ONE MEMBER OF THE BOARD WHO IS AN ENGINEER OR A GEOLOGIST.

12 B. THE INITIAL MEMBERS SHALL ASSIGN THEMSELVES BY LOT TO TERMS OF ONE,
13 TWO AND THREE YEARS IN OFFICE. ALL SUBSEQUENT MEMBERS SERVE THREE YEAR TERMS
14 OF OFFICE. THE BOARD BY A MAJORITY VOTE MAY REMOVE ANY MEMBER FOR
15 MISCONDUCT, INCAPACITY OR NEGLECT OF DUTY.

16 C. THE COMMITTEE MAY PARTICIPATE IN THE INVESTIGATION AND REVIEW OF
17 DRUG LABORATORY REMEDIATION COMPLAINTS AS AUTHORIZED BY THE BOARD.

18 D. THE COMMITTEE IS RESPONSIBLE FOR DRAFTING AND RECOMMENDING TO THE
19 BOARD BEST PRACTICES AND STANDARDS FOR REMEDIATION OF RESIDUAL CONTAMINATION
20 FOUND ON REAL PROPERTY FROM THE MANUFACTURE OF METHAMPHETAMINE, ECSTASY OR
21 LSD OR THE STORAGE OF CHEMICALS OR EQUIPMENT USED IN MANUFACTURING
22 METHAMPHETAMINE, ECSTASY OR LSD.

23 Sec. 7. Heading change

24 The article heading of title 32, chapter 1, article 2, Arizona Revised
25 Statutes, is changed from "REGISTRATION" to "REGISTRATION AND CERTIFICATION".

26 Sec. 8. Section 32-121, Arizona Revised Statutes, is amended to read:

27 32-121. Certificate or registration required for practice

28 A person desiring to practice the profession of architecture, assaying,
29 engineering, geology, landscape architecture, or land surveying shall first
30 secure a certificate of registration ANY BOARD REGULATED PROFESSION OR
31 OCCUPATION SHALL FIRST SECURE A CERTIFICATE OR REGISTRATION and shall comply
32 with all the conditions prescribed in this chapter.

33 Sec. 9. Title 32, chapter 1, article 2, Arizona Revised Statutes, is
34 amended by adding sections 32-122.03, 32-122.04 and 32-122.05, to read:

35 32-122.03. Registration of drug laboratory site remediation
36 firms

37 A. A BUSINESS ENTITY SHALL NOT OFFER DRUG LABORATORY SITE REMEDIATION
38 SERVICES PURSUANT TO THIS CHAPTER UNLESS THE ENTITY IS REGISTERED WITH THE
39 BOARD PURSUANT TO THIS SECTION.

40 B. THE BUSINESS ENTITY SHALL FILE A REGISTRATION APPLICATION ON A FORM
41 PROVIDED BY THE BOARD. THE APPLICATION SHALL INCLUDE ALL OF THE FOLLOWING:

- 42 1. A DESCRIPTION OF THE ENTITY'S SERVICES OFFERED TO THE PUBLIC.
43 2. THE NAME OF THE REMEDIATION SUPERVISOR WHO IS AUTHORIZED AND
44 RESPONSIBLE FOR THE SERVICES BEING OFFERED.

1 3. PROOF THAT THE ENTITY IS LICENSED BY THE REGISTRAR OF CONTRACTORS
2 PURSUANT TO CHAPTER 10 OF THIS TITLE.

3 4. AN APPLICATION FEE PRESCRIBED BY THE BOARD.

4 32-122.04. Certification of remediation supervisors

5 A. AN APPLICANT FOR CERTIFICATION AS A REMEDIATION SUPERVISOR SHALL
6 BE ALL OF THE FOLLOWING:

7 1. AT LEAST EIGHTEEN YEARS OF AGE.

8 2. OF GOOD MORAL CHARACTER AND REPUTE.

9 3. TRAINED PURSUANT TO STATE AND FEDERAL OCCUPATIONAL SAFETY AND
10 HEALTH ADMINISTRATION REGULATIONS IN ADDITION TO ANNUAL RENEWAL TRAINING
11 REQUIRED FOR THE HANDLING OF AND EXPOSURE TO CONTAMINATED MATERIALS,
12 CHEMICALS OR CONTAMINATED EQUIPMENT AND OTHER REQUIREMENTS AS PRESCRIBED BY
13 THE BOARD.

14 B. AN APPLICANT FOR CERTIFICATION AS A REMEDIATION SUPERVISOR SHALL
15 FILE AN APPLICATION ON A FORM PROVIDED BY THE BOARD. THE APPLICATION SHALL
16 INCLUDE BOTH OF THE FOLLOWING:

17 1. PROOF THAT THE APPLICANT HAS SUCCESSFULLY COMPLETED THE
18 REQUIREMENTS OF SUBSECTION A, PARAGRAPH 3.

19 2. AN APPLICATION FEE PRESCRIBED BY THE BOARD.

20 32-122.05. Registration of on-site workers

21 A. AN APPLICANT FOR REGISTRATION AS AN ON-SITE WORKER SHALL BE ALL OF
22 THE FOLLOWING:

23 1. AT LEAST EIGHTEEN YEARS OF AGE.

24 2. OF GOOD MORAL CHARACTER AND REPUTE.

25 3. TRAINED PURSUANT TO STATE AND FEDERAL OCCUPATIONAL SAFETY AND
26 HEALTH ADMINISTRATION REGULATIONS IN ADDITION TO ANNUAL RENEWAL TRAINING
27 REQUIRED FOR THE HANDLING OF AND EXPOSURE TO CONTAMINATED MATERIALS,
28 CHEMICALS OR CONTAMINATED EQUIPMENT AND OTHER REQUIREMENTS AS PRESCRIBED BY
29 THE BOARD.

30 B. AN APPLICANT FOR REGISTRATION AS AN ON-SITE WORKER SHALL FILE A
31 REGISTRATION APPLICATION ON A FORM PROVIDED BY THE BOARD. THE APPLICATION
32 SHALL INCLUDE BOTH OF THE FOLLOWING:

33 1. PROOF THAT THE APPLICANT HAS SUCCESSFULLY COMPLETED THE
34 REQUIREMENTS OF SUBSECTION A, PARAGRAPH 3.

35 2. AN APPLICATION FEE PRESCRIBED BY THE BOARD.

36 Sec. 10. Section 32-123, Arizona Revised Statutes, is amended to read:

37 32-123. Application for registration and certification

38 A. A person desiring to practice ~~architecture, assaying, engineering,~~
39 ~~geology, home inspection, landscape architecture or land surveying~~ ANY BOARD
40 REGULATED PROFESSION OR OCCUPATION shall make application for registration
41 or certification on a form prescribed by the board, subscribed under oath
42 PENALTY OF PERJURY and accompanied by the application fee. If the evidence
43 submitted satisfies the board that the applicant is fully qualified, ~~under~~
44 ~~section 32-122.01, 32-122.02 or 32-126,~~ to practice the profession OR
45 OCCUPATION for which registration or certification is asked, it shall give

1 GRANT the applicant a certificate of registration or certification, signed
2 by the chairman and secretary and attested by the official seal. If the
3 applicant seeks registration as a professional engineer, the certificate of
4 registration shall list the proficiency designation in the branch of
5 engineering in which the applicant has demonstrated proficiency.

6 B. A registered professional engineer who desires to practice land
7 surveying shall apply for professional registration as a land surveyor and
8 satisfy the requirements set forth in section 32-122.01, subsection B.

9 C. If in the judgment of the board the applicant has not furnished
10 satisfactory evidence of qualifications for registration or certification,
11 ~~under section 32-122.01, 32-122.02 or 32-126,~~ it may require additional
12 data, or may require the applicant to submit to an additional oral or
13 written examination specified by the board in its rules.

14 D. If the application is denied, the application fee shall be
15 returned, less the cost of considering the application, as determined by the
16 board.

17 Sec. 11. Section 32-124, Arizona Revised Statutes, is amended to read:

18 32-124. Schedule of fees; exemption

19 A. The board shall establish a schedule of fees for the following:

- 20 1. Examinations.
- 21 2. Applications.
- 22 3. Renewals.
- 23 4. Board publications.
- 24 5. Computer printouts of names of registrants.
- 25 6. Photocopies.
- 26 7. Copies of audiotapes, videotapes, computer discs or other mediums
27 MEDIA used for recording sounds, images or information.
- 28 8. Replacement certificates of registration.
- 29 9. Review of examinations.
- 30 10. Regrading of examinations.
- 31 11. Returned checks.

32 B. The board is exempt from the requirements of title 41, chapter 6
33 in establishing a fee schedule for the fees in subsection A, paragraphs 1,
34 2, 3, 9 and 10.

35 Sec. 12. Section 32-127, Arizona Revised Statutes, is amended to read:

36 32-127. Renewal of certification or registration; delinquency
37 penalty; inactive status; renewal fees

38 A. The board shall establish a staggered system for renewing
39 certification or registration ~~on a triennial basis~~.

40 B. Certificates of registration or certification are invalid after
41 their expiration date unless renewed by payment of the required renewal fee.
42 If the renewal fee is not paid prior to the expiration date, it shall be
43 accompanied by a penalty fee equal to one-sixth of the triennial renewal fee
44 for each year or fraction of a year of delinquency.

1 C. The board shall cancel a certificate of registration or
2 certification if it has remained invalid for three years and shall require
3 a new application, accompanied by the application fee for reregistration or
4 recertification.

5 D. A registrant or ~~home inspector~~ CERTIFICATE HOLDER shall not
6 practice, offer to practice or imply that the registrant or home inspector
7 can practice architecture, assaying, engineering, geology, home inspection,
8 landscape architecture or land surveying ADVERTISE if the registrant's
9 certificate of registration or the home inspector's certification is inactive
10 or invalid.

11 E. A registrant OR CERTIFICATE HOLDER who retires from the active
12 practice of ~~architecture, assaying, engineering, geology, landscape~~
13 ~~architecture or land surveying~~ ANY BOARD REGULATED PROFESSION OR OCCUPATION
14 or who is not currently practicing ~~architecture, assaying, engineering,~~
15 ~~geology, landscape architecture or land surveying~~ ANY BOARD REGULATED
16 PROFESSION OR OCCUPATION in this state may request that the board place the
17 registrant's certificate of registration OR CERTIFICATION on inactive status.
18 The registrant shall submit the request on a form prescribed by IN WRITING
19 TO the board.

20 F. If the board has invalidated, pursuant to subsection B of this
21 section, the certificate of registration of a registrant who seeks to place
22 the certificate of registration on inactive status, the registrant shall
23 submit all penalty fees that are due with the registrant's application for
24 inactive status.

25 G. A registrant shall not place the registrant's certificate of
26 registration on inactive status if the person's certificate of registration
27 has been canceled by the board pursuant to subsection C of this section.

28 H. A registrant who holds an inactive certificate of registration may
29 apply to the board to reactivate the certificate of registration. The board
30 shall reactivate an inactive certificate of registration if the registrant
31 submits a completed application on a form prescribed by the board and meets
32 the qualifications for professional registration set forth in section
33 32-122.01. A registrant who seeks reactivation of the registrant's
34 certificate of registration and who has not been engaged in the profession
35 in which the registrant seeks reactivation for the five years immediately
36 preceding the date of the application for reactivation shall take the
37 applicable professional examination.

38 I. The board shall establish the triennial renewal fee for each
39 certificate issued pursuant to this chapter which shall not exceed one
40 hundred fifty dollars.

41 J. The board shall establish the annual renewal fee for each home
42 inspector certificate issued pursuant to this chapter that shall not exceed
43 four hundred dollars for each year.

44 K. THE BOARD SHALL ESTABLISH THE ANNUAL RENEWAL FEE FOR A DRUG
45 LABORATORY SITE REMEDIATION FIRM REGISTRATION, A REMEDIATION SUPERVISOR

1 CERTIFICATION AND AN ON-SITE WORKER REGISTRATION. A PERSON WHO IS SUBJECT
2 TO THE RENEWAL FEE PURSUANT TO THIS SUBSECTION IS NOT SUBJECT TO THE RENEWAL
3 FEE UNDER SUBSECTION I OF THIS SECTION.

4 Sec. 13. Section 32-128, Arizona Revised Statutes, is amended to read:

5 32-128. Disciplinary action; letter of concern; judicial review

6 A. The board may take the following disciplinary actions, in
7 combination or alternatively:

8 1. Revocation of a certification or registration.

9 2. Suspension of a certification or registration for a period of not
10 more than three years.

11 3. Imposition of an administrative penalty of not more than two
12 thousand dollars for each violation of this chapter or rules adopted pursuant
13 to this chapter.

14 4. Imposition of restrictions on the scope of the registrant's
15 professional practice ~~or the home inspector's practice~~.

16 5. Imposition of peer review and professional education requirements.

17 6. Imposition of probation requirements that are best adapted to
18 protect the public safety, health and welfare and that may include a
19 requirement for restitution payments to professional services clients or to
20 other persons suffering economic loss resulting from violations of this
21 chapter or rules adopted pursuant to this chapter.

22 7. Issuance of a letter of reprimand informing a person regulated
23 under this chapter of a violation of this chapter or rules adopted by the
24 board.

25 B. The board may issue a letter of concern if the board believes there
26 is insufficient evidence to support disciplinary action against the
27 registrant or home inspector but sufficient evidence for the board to notify
28 the registrant or home inspector of the board's concern. A letter of concern
29 is a public document.

30 C. The board may take disciplinary action against the holder of a
31 certificate of OR registration ~~or the home inspector~~ under this chapter who
32 is charged with the commission of any of the following acts:

33 1. Fraud or misrepresentation in obtaining a certificate of
34 qualification, whether in the application or qualification examination.

35 2. Gross negligence, incompetence, bribery or other misconduct in the
36 practice of ~~home inspection or the registrant's profession~~.

37 3. Aiding or abetting an unregistered or uncertified person to evade
38 this chapter or knowingly combining or conspiring with an unregistered or
39 uncertified person, or allowing one's registration or certification to be
40 used by an unregistered or uncertified person or acting as agent, partner,
41 associate or otherwise of an unregistered or uncertified person, with intent
42 to evade this chapter.

43 4. Violation of this chapter or board rules.

44 5. ~~A registrant's failure~~ FAILING to pay a collaborating registered
45 professional within seven calendar days after the registrant receives payment

1 from a client unless specified otherwise contractually between the prime
2 professional and the collaborating registered professional. For THE purposes
3 of this paragraph, "collaborating registered professional" means a registered
4 professional with whom the prime professional has a contract to perform
5 professional services.

6 D. The board may make investigations, employ investigators and expert
7 witnesses, appoint members of advisory committees and conduct hearings to
8 determine whether a disciplinary action should be taken against the holder
9 of a certificate of OR registration ~~or the home inspector~~ under this chapter.

10 E. An investigation may be initiated on receipt of an oral or written
11 complaint. The board, on its own motion, may direct the executive director
12 to file a verified complaint charging a person with a violation of this
13 chapter or board rules and shall give notice of the hearing pursuant to title
14 41, chapter 6, article 10. The secretary or executive director shall then
15 serve upon the accused, by either personal service or certified mail, a copy
16 of the complaint together with notice setting forth the charge or charges to
17 be heard and the time and place of the hearing, which shall not be less than
18 thirty days after the service or mailing of notice.

19 F. A person who has been notified of charges pending against the
20 person shall file with the board an answer in writing to the charges not more
21 than thirty days after service of the complaint and notice of hearing. If
22 a person fails to answer in writing, it is deemed an admission by the person
23 of the act or acts charged in the complaint and notice of hearing. The board
24 may then take disciplinary action pursuant to this chapter without a hearing.

25 G. A disciplinary action may be informally settled by the board and
26 the accused either before or after initiation of hearing proceedings.

27 H. On its determination that ~~a registrant or a home inspector~~ ANY
28 PERSON has violated this chapter or a rule adopted pursuant to this chapter,
29 the board may assess the ~~registrant or the home inspector~~ PERSON with its
30 reasonable costs and expenses incurred in conducting the investigation and
31 administrative hearing. All monies collected pursuant to this subsection
32 shall be deposited, pursuant to sections 35-146 and 35-147, in the technical
33 registration fund established by section 32-109 and shall only be used by the
34 board to defray its expenses in connection with disciplinary investigations
35 and hearings. Notwithstanding section 35-143.01, these monies may be spent
36 without legislative appropriation.

37 I. The board shall immediately notify the secretary of state and clerk
38 of the board of supervisors of each county in the state of the suspension or
39 revocation of a certificate or of the reissuance of a suspended or revoked
40 certificate.

41 J. Except as provided in section 41-1092.08, subsection H, final
42 decisions of the board are subject to judicial review pursuant to title 12,
43 chapter 7, article 6.

1 Sec. 14. Section 32-145, Arizona Revised Statutes, is amended to read:

2 32-145. Violations; classification

3 Any person who commits any of the following acts is guilty of a class
4 2 misdemeanor:

5 1. Practices, offers to practice or by any implication holds himself
6 out as qualified to practice architecture, ~~assaying, engineering, geology,~~
7 ~~home inspection, landscape architecture or land surveying~~ who ANY BOARD
8 REGULATED PROFESSION OR OCCUPATION IF THE PERSON is not registered or
9 certified as provided by this chapter.

10 2. Advertises or displays any card, sign or other device that may
11 indicate to the public that the person is ~~a home inspector or a registered~~
12 ~~professional architect, assayer, engineer, geologist, landscape architect or~~
13 ~~land surveyor, CERTIFIED OR REGISTERED~~ or is qualified to practice as such,
14 who ANY BOARD REGULATED PROFESSION OR OCCUPATION IF THE PERSON is not
15 certified or registered as provided by this chapter.

16 3. Assumes the title of ~~USES~~ "certified", "professional certified",
17 "professional", "registered", "registered professional" or "professional
18 registered" engineer, architect, geologist, assayer, landscape architect,
19 ~~home inspector or land surveyor~~ who IN CONJUNCTION WITH ANY BOARD REGULATED
20 PROFESSION OR OCCUPATION IF THE PERSON is not certified or registered as
21 provided by this chapter.

22 4. Uses a certification or certificate of registration of another, or
23 uses an expired or revoked certification or certificate of registration.

24 5. Presents false evidence to the board with the intent to obtain a
25 certification or a certificate of registration.

26 6. Otherwise violates any provision of this chapter.

27 Sec. 15. Exemption from rule making

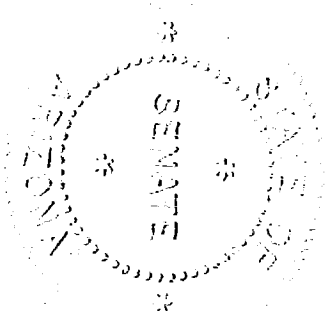
28 The state board of technical registration is exempt from the rule
29 making requirements of title 41, chapter 6, Arizona Revised Statutes, for one
30 year after the effective date of this act to implement this act.

31 Sec. 16. Effective date

32 Sections 12-990, 12-1000, 32-122.03, 32-122.04 and 32-122.05, Arizona
33 Revised Statutes, as added by this act, and sections 32-101, 32-106,
34 32-106.01, 32-106.02, 32-121, 32-123, 32-124, 32-127, 32-128 and 32-145,
35 Arizona Revised Statutes, as amended by this act, are effective from and
36 after June 30, 2003.

APPROVED BY THE GOVERNOR MAY 22, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 23, 2002.



Passed the House April 9, 2002,

by the following vote: 51 Ayes,

3 Nays, 6 Not Voting

Jake Dulake
Speaker of the House
Pro Tempore

Herman L. Moore
Chief Clerk of the House

Passed the Senate May 2, 2002

by the following vote: 26 Ayes,

2 Nays, 2 Not Voting

Barbara Anant
President of the Senate

Charmine Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

H.B. 2595

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this day of , 20 ,

at o'clock M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 16, 2002,

by the following vote: 52 Ayes,

6 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

16 day of May, 2002

at 3:00 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 22nd day of

May, 2002,

at 4:45 o'clock P M.

[Signature]
Governor of Arizona

H.B. 2595

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 23 day of May, 2002

at 3:23 o'clock P M.

[Signature]
Secretary of State